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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/798,184	03/11/2004	John O. Ruid	D0932-00260	5299
8933 7590 11/16/2007 DUANE MORRIS, LLP IP DEPARTMENT 30 SOUTH 17TH STREET PHILADELPHIA, PA 19103-4196			EXAMINER NGUYEN, CHI Q	
			ART UNIT 3635	PAPER NUMBER
			MAIL DATE 11/16/2007	DELIVERY MODE PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

## Office Action Summary

Application No.

10/798,184

Applicant(s)

RUID ET AL.

Examiner

Chi Q. Nguyen

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3635

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 01 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 11 March 2004.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-35 is/are pending in the application.
- 4a) Of the above claim(s) 1-15 and 17 is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 16-27 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO/SB/08)  
Paper No(s)/Mail Date See Continuation Sheet.
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_.
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: \_\_\_\_\_.

Continuation of Attachment(s) 3). Information Disclosure Statement(s) (PTO/SB/08), Paper No(s)/Mail Date :7/19/2005, 12/22/2004, 3/11/2004.

## **DETAILED ACTION**

### ***Election/Restrictions***

Applicant's election without traverse of Group I (claims 16-27) in the reply filed on 9/5/2007 is acknowledged.

### ***Status of Claims***

Claims 1-15 and 28-35 are drawn to non-elected claims.

Claims 16-27 are pending and have been examined.

### ***Information Disclosure Statement***

The information disclosure statement (IDS) submitted on 7/19/2005 (one page), 12/22/2004 (four pages), and 3/11/2004 (six pages) is being considered by the examiner.

### ***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 16-17, 19, 21-22, 24-25, and 27 are rejected under 35 U.S.C. 102(b) as being anticipated by US Patent No. 5,735,092 to Clayton et al.

Claim 16:

Clayton discloses a method of manufacturing an insulation product comprising the steps of forming a web of randomly oriented fibers on a forming belt (see Abstract and Fig. 2), said fibers being coated with a heat curable binder (see col. 6, lines 39, and lines 57-

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58), said web generally having a first major surface and a second major surface and a pair of side portions, wherein said web has a higher percentage by weight of said heat curable binder in a region of said web proximate to at least one of said major surfaces compared with a total percentage by weight of said binder in said web, compressing by belts 26 and heating 44 said web to form a sheet of said randomly oriented fibers bonded by said heat curable binder, said sheet having first and second major surfaces and a pair of side portions; and affixing a facing layer 15 to said at least one of said major surfaces of said sheet, wherein a region of said sheet proximate to said facing layer is more puncture resistant than a remainder of said sheet.

Claim 17:

Wherein said sheet is a rigid or semi-rigid insulation board (see col. 5, lines 13-14).

Claim 19:

Wherein said facing layer is selected from the group consisting of a paper (col. 5, line 43).

Claims 21-22, 24 and 27:

Further comprising the step of providing a toughness improvement additive to said web, wherein said region of said sheet proximate to said facing layer includes said toughness improvement additive and wherein said additive includes a latex additive, and said additive improves the tensile strength of said region (see col. 5, lines 16 and 41).

Claim 25:

Wherein said additive comprises thermoplastic fibers that are meltbonded to said randomly oriented fibers at least in said region (col. 5, lines 13-16).

***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 18, 20, 23, and 26 are rejected under 35 U.S.C. 103(a) as being unpatentable over US Pat. No. 5,735,092 to Clayton et al.

Claims 18, 20, 23 and 26:

Clayton discloses the invention as claimed except that wherein said board is a fiberglass board having a fiber density greater than about 2.0 pounds per cubic foot, wherein said sheet includes at least about 16 percentage by weight binder and said region of said sheet proximate to said facing layer is between about 25-33 percent of the thickness of said sheet, wherein said additive improves the toughness of said region by at least 10%, and wherein said sheet includes between about 16-25 percentage by weight binder. However, these features would have been matters of obvious design choice to one of ordinary skill in the art at the time the invention was made to have such specific parameters for density, weight binder percentage and toughness in order to meet a thermal climax requirements for different regions. Furthermore, applicant has not disclosed the criticality of this feature.

***Conclusion***

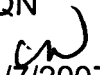
The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Any inquiry concerning this communication or earlier communication from the examiner should be directed to Chi Q. Nguyen whose telephone number is (571) 272-6847. The examiner can normally be reached on Monday-Friday from 7:30 am-4:00 pm.

If attempt to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Richard Chilcot can be reached at (571) 272-6777.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pairdirect.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at (866) 217-9197.

CQN

  
11/7/2007

/J. CHAPMAN/  
PRIMARY EXAMINER  
ART UNIT 3633